

ASSEMBLY BILL

No. 901

Introduced by Assembly Member Davis

February 26, 2009

An act to add Article 6 (commencing with Section 8290) to Chapter 7 of Division 4 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 901, as introduced, Davis. Public utilities: corporate responsibilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical, gas, water, and telephone corporations. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature, authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law directs the commission to require every electrical, gas, telephone, and water corporation with annual gross revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, to implement a program developed by the commission to encourage, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises, as defined, in the procurement of contracts from those corporations or from their regulated subsidiaries and affiliates, and to require the reporting of certain information.

This bill would require the commission to compile and make publicly available a comprehensive list of corporate responsibility principals to be followed by all public utilities whose rates and charges are regulated under rate-of-return regulation by the commission.

This bill would require that a public utility whose rates and charges are regulated under rate-of-return regulation by the commission, with annual gross revenue of \$50,000,000 or more, report by April 1 of each year, to the Legislature and the commission, and make publicly available on a company Internet Web site certain information relative to employee and executive compensation. The bill would require the commission to annually poll 1,000 ratepayers within the service territory of the public utility to obtain an advisory opinion on the ratepayers' views of the executive compensation paid by the public utility and report those views to the public utility and the Legislature and make the results available, in summary form, on the commission's Internet Web site. The bill would require the commission to consider the information in any ratemaking case involving the public utility and in any merger or acquisition involving the public utility, and include findings relative to this information in the decision of the commission.

This bill would require the commission to consider corporate philanthropy when considering any ratemaking case, or merger or acquisition of a public utility whose rates and charges are regulated under rate-of-return regulation by the commission, with annual gross revenue of \$50,000,000 or more and to include information relative to the public utility's philanthropy in the utility's triennial general ratemaking case.

This bill would require the commission to require any public utility whose rates and charges are regulated under rate-of-return regulation by the commission, to gather data by ethnicity and gender for labor, management, and executive employees, and for the board of directors, and submit this information by April 1 of each year, to the Legislature and the commission, and to make the information publicly available on a company Internet Web site.

This bill would require the commission to include information on a public utility's compliance with the program developed by the commission to encourage, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises in any decision in a ratemaking case, or involving a merger or acquisition involving the public utility.

This bill would require the commission, for any public utility whose rates and charges are regulated under rate-of-return regulation by the commission, with annual gross revenue of \$50,000,000 or more, to schedule hearings for the convenience of ratepayers in the community of affected ratepayers to ensure that ratepayers have reasonable notice

of any proceeding of the commission that may have a substantial effect upon the rates and charges of a public utility and have a reasonable opportunity to participate in the proceeding. The bill would require the commission to establish a procedure whereby newspapers and other media sources may request notices of hearings and proceedings and would require the commission to consider the comments of ratepayers in reaching any decision in the proceeding.

This bill would require the commission to annually make available on its Internet Web site, a summary of the disposition of all credible local, state, federal, and international rulings relating to a public utility's corporate responsibilities, including any disciplinary or enforcement activity with respect to the public utility. The bill would require the commission to consider this information in any proceeding involving the public utility, and would authorize the commission to order any remedial action be taken that is determined to be reasonable, as a condition for approving any rate increase, merger, acquisition, or other approval by the commission.

The bill would require the commission, by April 1 of each year, to report to the Legislature and make publicly available on the commission's Internet Web site, a summary of all actions taken by the commission relative to a public utility's corporate responsibilities pursuant to the above-described requirements, and to include a summary of the effect of the commission's actions on the interests of ratepayers.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 8290) is added to Chapter 7 of Division 4 of the Public Utilities Code, to read:

Article 6. Corporate Responsibilities of Public Utilities

8290. (a) The Legislature finds and declares all of the following:

(1) Public utilities that have been granted a territorial monopoly and are regulated pursuant to rate-of-return regulation of their fees and charges by the commission are insulated from market forces and these public utilities have a special responsibility to their ratepayers, whose rates ensure their success and that of their executives and shareholders.

(2) It is the intent of the Legislature, through this article, to codify the corporate responsibilities of public utilities toward their ratepayers.

(3) It is the intent of the Legislature that compliance with corporate responsibilities be a mandatory consideration by the commission in any application by the public utility for a change in rates, change in services offered by the utility, and in any approval for a merger or acquisition and that the findings of the commission reflect that consideration.

(4) It is the further intent of the Legislature that public hearings be held whenever ratepayers raise substantial issues relative to a public utility's compliance with its corporate responsibilities.

(b) The commission shall compile and make publicly available a comprehensive list of corporate responsibility principals to be followed by all public utilities whose rates and charges are regulated under rate-of-return regulation by the commission.

8291. (a) The Legislature finds and declares both of the following:

(1) Executive compensation affects a public utility's bottom line and therefore has a direct impact on rates approved by the commission.

(2) While it is not the intent of the Legislature to establish maximum compensation that a public utility may pay its executives, it is the intent of the Legislature to improve public accountability

1 with respect to executive compensation, including the “perks” of
2 office.

3 (b) A public utility whose rates and charges are regulated under
4 rate-of-return regulation by the commission, with annual gross
5 revenue of fifty million dollars (\$50,000,000) or more, shall report
6 by April 1 of each year, to the Legislature and the commission,
7 and make publicly available on a company Internet Web site, all
8 the following:

9 (1) The aggregate compensation of any employee who received
10 more in compensation than the Governor’s annual authorized
11 compensation.

12 (2) A summary of the aggregate compensation for all personnel
13 receiving more in annual compensation than the Governor’s annual
14 authorized compensation during the prior year.

15 (3) A comparison of the aggregate compensation paid to
16 executives of the corporation compared to the median
17 compensation paid to California employees of the public utility
18 below the executive level.

19 (4) A comparison of the total compensation paid to executive
20 employees of the corporation compared to the aggregate
21 philanthropy provided during the same time period to underserved
22 and low-income communities.

23 (c) The commission shall, for any public utility subject to the
24 requirements of subdivision (b), annually poll 1,000 ratepayers
25 within the service territory of the public utility to obtain an advisory
26 opinion on the ratepayers’ views of the executive compensation
27 paid by the public utility and report those views to the public utility
28 and the Legislature and make the results available, in summary
29 form, on the commission’s Internet Web site.

30 (d) The commission shall, for any public utility subject to the
31 requirements of subdivision (b), consider the information in any
32 ratemaking case involving the public utility and in any merger or
33 acquisition involving the public utility, and shall include findings
34 relative to this information in the decision of the commission in
35 those proceedings.

36 8292. (a) The Legislature finds and declares that although the
37 cost of philanthropy may be born by shareholders, philanthropy
38 affects and benefits ratepayers and philanthropy is a form of
39 corporate goodwill, marketing, and part of the corporate
40 responsibilities of public utilities.

1 (b) The commission shall, for any public utility whose rates and
2 charges are regulated under rate-of-return regulation by the
3 commission, with annual gross revenue of fifty million dollars
4 (\$50,000,000) or more, consider corporate philanthropy when
5 considering any ratemaking case involving the public utility, or in
6 any merger or acquisition involving the public utility.

7 (c) The commission shall, in any triennial general ratemaking
8 case for a public utility regulated under rate-of-return regulation
9 by the commission, with annual gross revenue of fifty million
10 dollars (\$50,000,000) or more, include the amount of the public
11 utility's philanthropy in the decision of the commission with a
12 breakdown for amounts going to underserved and low-income
13 communities or other relevant categories of philanthropy.

14 8293. (a) The Legislature finds and declares that the survival
15 and profitability of a public utility is, in part, dependent upon
16 ratepayer support and public utilities should strive to make the
17 diversity of their workforce, including management and executive
18 level employees, reflective of the diversity of the public they serve.

19 (b) The commission shall, for any public utility whose rates and
20 charges are regulated under rate-of-return regulation by the
21 commission, require the public utility to gather data by ethnicity
22 and gender for labor, management, and executive employees, and
23 for the board of directors, and submit this information by April 1
24 of each year, to the Legislature and the commission, and to make
25 the information publicly available on a company Internet Web
26 site. For any public utility whose service territory includes areas
27 outside of California, the information shall be provided both on a
28 company-wide basis and on a California-specific basis.

29 8294. The commission shall, for any public utility that is subject
30 to the requirements of Article 5 (commencing with Section 8281),
31 include information on the public utility's compliance with those
32 requirements in any decision in a ratemaking case involving the
33 public utility, or in any decision involving a merger or acquisition
34 involving the public utility.

35 8295. (a) It is the intent of the Legislature that the commission
36 ensure that ratepayers are informed of, and have an opportunity
37 to participate in, any proceeding of the commission that may have
38 a substantial effect upon the rates and charges of a public utility
39 and that public hearings be held in the ratepayers' community
40 whenever ratepayer groups request that this be done.

(b) The commission shall, for any public utility whose rates and charges are regulated under rate-of-return regulation by the commission, with annual gross revenue of fifty million dollars (\$50,000,000) or more, schedule hearings for the convenience of ratepayers in the community of affected ratepayers to ensure that ratepayers have reasonable notice of any proceeding of the commission that may have a substantial effect upon the rates and charges of a public utility and have a reasonable opportunity to participate in the proceeding. The public notice of the hearing shall be in plain language and be designed to fully inform ratepayers of the nature of the hearing. The commission shall establish a procedure whereby newspapers and other media sources may request notices of hearings and proceedings. The commission shall consider the comments of ratepayers in reaching any decision in the proceeding.

8296. (a) The commission shall annually make available on its Internet Web site, a summary of the disposition of all credible local, state, federal, and international rulings relating to a public utility's corporate responsibilities, including any disciplinary or enforcement activity with respect to the public utility.

(b) The commission shall consider the information responsive to subdivision (a) in any ratemaking case involving the public utility, in any merger or acquisition involving the public utility, or in any other proceeding involving the public utility, and may order any remedial action be taken that is determined to be reasonable, as a condition for approving any rate increase, merger, acquisition, or other approval by the commission.

8297. The commission shall, by April 1 of each year, report to the Legislature and make publicly available on the commission's Internet Web site, a summary of all actions taken by the commission pursuant to this article, with a summary of the effect of the commission's actions on the interests of ratepayers.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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